

**REMARKS**

Claims 1, 3-4, 6-7 and 28 are pending in this application. For purposes of expedition, claims 1, 4 and 7 have been amended in several particulars for purposes of clarity and brevity that are unrelated to patentability and prior art rejections in accordance with current Office policy, to further and alternatively define Applicants' disclosed invention and to assist the Examiner to expedite compact prosecution of the instant application.

Claims 1, 4, 6 and 28 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Yeates et al., U.S. Patent No. 5,644,782 in view of Kullick et al., U.S. Patent No. 5,751,997 for reasons stated on pages 3-8 of the Office Action (Paper No. 20061010) dated on October 17, 2006. This rejection is respectfully traversed, however. Applicants respectfully submit that features of Applicants' claims 1, 4, 6 and 28 are not taught or suggested by Kullick and Yeates, whether taken individually or in combination with any other references of record. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection for the following reasons.

At page 4, line 5 et seq. of the Office Action, the Action admits that Yeates does **not** specifically teach (1) "that the optical disc comprising a database and (a) the date and time of a last update of the database are recorded", (2) an optical disc "programmed to transmit the date and time of the last update to the server and to record modified/updated data for initial data of the database", (3) that "the server (is) programmed to determine if modification/update of the database recorded on the optical disc is needed based on the transmitted date and time", and (4) that the server transmits "the modified/updated data to the optical disc recording/reproducing apparatus." Following this admission, the Examiner asserts that these elements, **not** found in the primary reference, are taught by Kullick, citing col. 5, lines 3-61; col.7, line 9; col. 8, line 38; and Figs 1-4c of the Kullick patent.

It is respectfully submitted that none of the citations to the Kullick patent disclose recording date and time of a last update of a database, transmission of date and time of a last update to a server or determination by a server if modification/update of the database recorded on the optical disc is needed based on the transmitted date and time, as recited in independent claims 1 and 4. Col. 5 and Figs. 2a-2c of Kullick describe in detail the computer backup system as shown in Fig.1, but do not mention recording or transmission of the date and time of an

update, or determination by a server if modification/update of the database recorded on the optical disc is needed based on the transmitted date and time. Col. 7, line 9 explains that "During backup initialization 70 full backup of the disk 21 is performed." Col. 8, line 38 states "In the first state of the backup cycle, the primary storage device does not have a full index (it deleted it after sending it to the computer device ) or backup data file for the disk." **Nowhere in the citations to the Kullick patent is there disclosed or suggested the claimed recording or transmission of date and time of a last update, or the determination by a server of the need for modification/update of a database recorded on an optical disc based on transmitted date and time.**

That the Kullick patent cannot be combined with Yeates to render Applicants' invention unpatentable is further emphasized by the penultimate sentence on page 4 of the Action which admits "Kullick does not specifically teach the date and time of the last update information of the date base are recorded on the optical disk." (emphasis in the original). However, despite the several admissions in the Action, the Examiner takes the positions that it would have been obvious to one of ordinary skill in the art (1) "to allow the date and time of the last update information of the database to be recorded on the disc because this would transmit all the necessary information from the optical disc.....to the server at once; thus reducing the complexity of multiple transactions.", (2) "at the time the invention was made to allow the optical disk in Yeates' teaching to include a database and a date and time of a last update of the database are recorded, and which is programmed to transmit the date and time of the last update to the server and to record modified/updated data", (3) to program the server "to determine if modification/update of the database recorded on the optical disc is needed based on the transmitted data and time ", and (4) "to transmit the modified/updated data to the optical disc recording/reproducing apparatus.

It is noted that the subject matter claimed by Applicants', which the Action finds obvious, is not based only on the teachings of the references but rather on the teaching of Kullick as modified by the Examiner. (See page 6 of the Action, lines 15 and 16). It is respectfully submitted that such modifications could only have been made in the light of Applicants' teaching and therefore are an improper ground of rejection. Further, it is significant in evaluating the invention under 35 USC 103 that features of the invention which the Examiner finds obvious, such as "reducing the complexity of multiple transactions" have significant commercial

importance and are factors which must be considered in determining obviousness under 35 USC 103.

For the reasons given above and in previous amendments to this application, it is submitted that independent apparatus claim 1 and independent method claims 4 and 28 are patentable over the cited references. Claim 6, which depends from claim 4 is also considered allowable for the reasons given above and because it is dependent on allowable 4.

Dependent claims 3 and 7 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Yeates et al., U.S. Patent No. 5,644,782 in view of Kullick et al., U.S. Patent No. 5,751,997 in view of Alloul et al., U.S. Patent No. 6,032,130. This rejection is also respectfully traversed for the reasons given for the traversal of the rejection of claims 1, 4, 6 and 28. In addition, Claim 3 is considered allowable since it is dependent on allowable claim 1 and claims 7 is considered allowable because it is dependent on allowable claim 4.

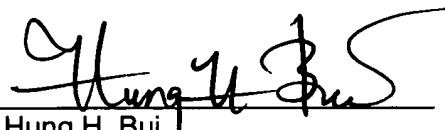
In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition to be passed to issue. Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney at the Washington DC office at (202) 216-9505 ext. 232.

To the extent necessary, Applicants petition for an extension of time under 37 CFR §1.136. If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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